

ENROLLED ACT NO. 47, SENATE

SIXTY-FOURTH LEGISLATURE OF THE STATE OF WYOMING  
2018 BUDGET SESSION

AN ACT relating to public health and safety; authorizing the department of health to contract for volunteer health care services for low income persons; providing that claims against volunteering medical facilities and health care providers are subject to the Wyoming Governmental Claims Act; authorizing licensing boards to provide continuing education credit as specified; amending the Wyoming Governmental Claims Act to provide for claims under this act; providing for coverage under the state self insurance program; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 35-31-101 through 35-31-103 are created to read:

CHAPTER 31  
VOLUNTEER HEALTH SERVICES PROGRAM

**35-31-101. Definitions.**

(a) As used in this act:

(i) "Contract" means an agreement executed in compliance with this act between:

(A) A medical facility and the department that authorizes the medical facility to deliver volunteer health care services to low income persons in consideration for being deemed a medical facility of the state under the Wyoming Governmental Claims Act when performing duties under the contract; or

(B) A health care provider and the department that authorizes the health care provider to

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deliver volunteer health care services to low income persons in consideration for being deemed a public employee of the state under the Wyoming Governmental Claims Act when performing duties under the contract.

(ii) "Department" means the department of health;

(iii) "Health care provider" means any person licensed, certified or otherwise authorized by the law of this state to diagnose, cure, treat or prevent impairments of the normal state of the mind and body, including but not limited to physicians, physician assistants, nurses, pharmacists, optometrists, dentists, psychiatrists, psychologists and social workers;

(iv) "Low income person" means a person with an income not greater than two hundred percent (200%) of the current poverty line as specified by the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. 9902(2) and:

(A) The person is not a covered individual under a health insurance or health care policy, contract or plan; or

(B) The person is a covered individual under a health insurance or health care policy, contract or plan, but was denied coverage by the policy, contract or plan.

(v) "Medical facility" means:

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(A) A hospital, clinic, office, nursing home, or other facility where a health care provider provides health care to patients; and

(B) Provided that neither the medical facility nor individual health care provider receives compensation from or on behalf of the patient, "medical facility" includes all individuals, regardless of whether the individual receives wages, salary or other fees or compensation from the medical facility, who:

(I) Are employed by or under contract with the medical facility to provide health care to patients; or

(II) Have been granted privileges by the medical facility to provide health care to patients.

(vi) "Patient" includes clients of health care providers or medical facilities as defined by paragraph (iii) or (v) of this subsection;

(vii) "Volunteer health care" means services intended to diagnose, cure, treat or prevent impairments of the normal state of the mind and body when the provider of those services does not charge or receive compensation for the services from, or on behalf of, the patient;

(viii) "This act" means W.S. 35-31-101 through 35-31-103.

**35-31-102. Volunteer health services; application of claims act; exclusiveness of remedy; contract requirements.**

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(a) The department may execute contracts with health care providers and medical facilities to deliver volunteer health care services to low income persons as a deemed public employee or medical facility of the state.

(b) A health care provider who delivers volunteer health care services to a low income person pursuant to a contract that complies with the requirements of this act, and regardless of whether the low income person who is treated is later found to be ineligible, shall be considered a public employee of the state while acting within the scope of duties under the contract, but only for the purposes of the applicability of the Wyoming Governmental Claims Act, including W.S. 1-39-110. The state of Wyoming shall have the duty to defend a health care provider alleged to have been negligent in the provision of volunteer health care pursuant to a contract under subsection (a) of this section provided the health care provider cooperates as described in W.S. 1-41-103(e)(iv).

(c) A medical facility while providing volunteer health care services to a low income person pursuant to a contract that complies with the requirements of this act, and regardless of whether the low income person who is treated is later found to be ineligible, shall be considered a medical facility of the state, but only for purposes of the applicability of the Wyoming Governmental Claims Act, including W.S. 1-39-109(b). The state of Wyoming shall have the duty to defend a medical facility alleged to have been negligent in the provision of volunteer health care pursuant to a contract under subsection (a) of this section provided the medical facility cooperates as described in W.S. 1-41-103(e)(iv).

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(d) Volunteer health care providers and medical facilities shall determine patient eligibility using patient self attestation.

(e) The department, health care provider or medical facility retains the right to terminate the contract upon written notice of its intent to terminate the contract at least five (5) business days before the contract termination date unless the department determines that immediate termination is necessary to protect the safety of patients.

(f) A contract under this section shall contain provisions binding the parties to the requirements of subsections (b) through (e) of this section.

(g) The exclusive remedy for any injury or damage suffered as the result of any negligence of the health care provider or the medical facility, while acting within the scope of a contract under this act is an action against the state of Wyoming brought under the Wyoming Governmental Claims Act. Neither the patient nor any person claiming by or through the patient shall have any claim whatsoever against the health care provider or medical facility on account of health care provided to such patient within the scope of a contract under this act.

**35-31-103. Disclosure; continuing education credit; rulemaking.**

(a) Before a low income person receives volunteer health care services pursuant to this act, he or his legal representative shall sign a disclosure statement that informs the low income person of the following:

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(i) The health care provider shall be considered a public employee of the state under the Wyoming Governmental Claims Act while providing volunteer health care under this act and that the provider's liability will be limited by the provisions of the Wyoming Governmental Claims Act;

(ii) The medical facility shall be considered a facility of the state and any individual included in the definition of medical facility in W.S. 35-31-101(a)(v) shall be considered a public employee of the state under the Wyoming Governmental Claims Act while providing volunteer health care under this act and that the facility's liability, including the liability of any individual included in the definition of medical facility, will be limited by the provisions of the Wyoming Governmental Claims Act;

(iii) Commencement of an action against the state of Wyoming pursuant to the Wyoming Governmental Claims Act shall be the exclusive remedy for any injury or damage suffered as the result of any negligence of the health care provider or the medical facility, as defined in W.S. 35-31-101(a)(v), while acting within the scope of a contract that exists between the department and the health care provider or medical facility. Neither patient nor any person claiming by or through the patient shall have any claim whatsoever against the health care provider or medical facility on account of health care provided to such patient within the scope of the contract;

(iv) The low income person may elect to decline treatment under the provisions of this act.

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(b) Licensing boards may grant continuing education credit to health care providers for the performance of volunteer health care services to low income persons pursuant to this act.

(c) The department shall adopt rules necessary to implement this act.

**Section 2.** W.S. 1-39-103(a)(iv) by creating a new subparagraph (G), 1-39-109, 1-39-110(b) and 1-41-102(a)(v) by creating a new subparagraph (E) are amended to read:

**1-39-103. Definitions.**

(a) As used in this act:

(iv) "Public employee":

(G) Includes any health care provider, as defined by W.S. 35-31-101(a)(iii), and any individual included in the definition of medical facility in W.S. 35-31-101(a)(v), under a contract with the state to deliver volunteer health care services to low income persons under W.S. 35-31-101 through 35-31-103 while providing the contracted services. Nothing in this subparagraph alters the requirement that any action for damages shall be brought against the state of Wyoming as provided by W.S. 35-31-102(g).

**1-39-109. Liability; medical facilities.**

(a) Except as provided in subsection (b) of this section, a governmental entity is liable for damages resulting from bodily injury, wrongful death or property damage caused by the negligence of public employees while

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acting within the scope of their duties in the operation of any public hospital or in providing public outpatient health care.

(b) The state of Wyoming is solely liable for damages resulting from, and the sole responsible party for, bodily injury or wrongful death to a patient treated under the provisions of W.S. 35-31-101 through 35-31-103 caused by the negligence of a health care provider or a medical facility while performing health care services pursuant to a contract to deliver volunteer health services under W.S. 35-31-101 through 35-31-103.

**1-39-110. Liability; health care providers.**

(b) Notwithstanding W.S. 1-39-118(a), for claims under this section against a physician, physician assistant, nurse, optometrist or dentist who is employed by a governmental entity or who is deemed to be a public employee of the state by virtue of a contract pursuant to W.S. 35-31-101 through 35-31-103, based upon an act, error or omission occurring on or after May 1, 1988, the liability of a governmental entity shall not exceed the sum of one million dollars (\$1,000,000.00) to any claimant for any number of claims arising out of a single transaction or occurrence nor exceed the sum of one million dollars (\$1,000,000.00) for all claims of all claimants arising out of a single transaction or occurrence.

**1-41-102. Definitions.**

(a) As used in this act:

(v) "Public employee" means any officer, employee or servant of the state, provided the term:

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(E) Includes health care providers and medical facilities delivering volunteer health care services to low income individuals under a contract pursuant to W.S. 35-31-101 through 35-31-103.

**Section 3.** This act is effective July 1, 2018.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the Senate.

\_\_\_\_\_  
Chief Clerk